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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,556	02/23/2004	Xiaoshu Xu	MAE-OC1	8670
7590 10/10/2008				
Michael A. Ervin 8202 Talbot Cove Austin, TX 78746				
EXAMINER				
STREGE, JOHN B				
ART UNIT		PAPER NUMBER		
2624				
MAIL DATE		DELIVERY MODE		
10/10/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/784,556

Applicant(s)

XU, XIAOSHU

Examiner

JOHN B. STREGE

Art Unit

2624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 24-44 is/are allowed.
- 6) ☒ Claim(s) 1 and 3-20 is/are rejected.
- 7) ☒ Claim(s) 21-23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- _____ Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- _____ Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Response to Amendment

1. The amendment received 7/15/08 has been entered in full.

Response to Arguments

2. Applicant's arguments, see page 10, filed 7/15/08, with respect to claims 21-24, and 42-44 have been fully considered and are persuasive. The rejection of claims 21-44 has been withdrawn.

Applicant's arguments filed regarding claim 1 have been fully considered but they are not persuasive. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., eliminating the need for a computer as part of the verification process, the biometric validation module represents a very small, low cost, low power module totally separated from a computer) are not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The claims are given their broadest reasonable interpretation. In this case the toy itself is read as the carrier and the toy itself contains the neural net engine circuitry and the biometric sensor which transmits data to the neural net engine circuitry. Furthermore Turney discloses that the neural net engine circuitry generates an acceptance signal when the value generated by an output node of said neural net engine circuitry is within a predetermined acceptance range (col. 3 lines 53-63, col. 5 lines 19-67, paragraph bridging cols. 6-7, and paragraph bridging

cols. 9-10). Thus the Examiner's interpretation reads on the claimed invention of claim 1 and the rejection is maintained.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1,3-4,7-8,and 16-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Tumey et al. USPN 6,807,291.

Regarding claim 1, Tumey discloses a system for personal identity verification comprising: a computer based enrollment system for training a neural net to obtain neural net weights for a biometric of a user (col. 7 lines 9-20); a carrier (the toy 127 is a carrier that contains the mounted sensor 120 and the computer system 113 with the neural network, col. 3 lines 20-52); neural net engine circuitry mounted on said carrier and having memory for stored neural net weights obtained from said computer based enrollment system for said user (col. 3 lines 53-63, col. 7 lines 10-20, col. 8 lines 23-35); a validation biometric sensor for capturing a biometric reading from said user, mounted on said carrier and connected to said neural net engine circuitry (fingerprint sensor 120 mounted inside the toy, col. 3 lines 36-40); and wherein said validation biometric sensor upon activation transmits data to said neural net engine circuitry and said neural net

engine circuitry generates an acceptance signal when the value generated by an output node of said neural net engine circuitry is within a predetermined acceptance range ((col. 3 lines 53-63, col. 5 lines 19-67, paragraph bridging cols. 6-7, and paragraph bridging cols. 9-10).

Regarding claim 3, the toy interacts with the user thus provides a visual display (col. 2 lines 47-67).

Regarding claim 4, the toy generates speech based on the user interaction (col. 2 lines 47-67).

Regarding claims 7-8, Tumey discloses activating an electrical switch and wireless transmitter (paragraph bridging cols. 3-4).

Regarding claim 16, as discussed Tumey discloses a biometric sensor 120, a computer connected to the sensor 113, and neural network training software in the computer (col. 3 lines 53-63).

Regarding claim 17, the sensor is a fingerprint sensor.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 5-6, 9-15, 18-20, are rejected under 35 U.S.C. 103(a) as being unpatentable over Tumey.

Regarding claims 5-6, Tumey does not explicitly disclose activating a magnetic stripe or deactivating the stripe after an elapsed time, however it is well known in the art of biometric authentication to do so and thus the Examiner declares official notice. It would be obvious to activate a magnetic stripe to allow for controlling the internet access of the user.

Regarding claims 9-15 the carrier used would be a matter of design choice.

Regarding claims 18-20, the sensors used would be a matter of design choice.

Allowable Subject Matter

7. Claims 24-44 are allowed.
8. The following is a statement of reasons for the indication of allowable subject matter: the claims are allowable due to the persuasive arguments of the applicant.
9. Claims 21-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN B. STREGE whose telephone number is (571)272-7457. The examiner can normally be reached on Monday-Friday between the hours of 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Bella can be reached on (571) 272-7778. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/John Strega/
10/08/08